1. S.B. CIVIL WRIT PETITION NO. 4989/2007
[Managing Committee, Nav Bharat Senior Secondary School Vs. Smt. Manju Dwivedi & Ors.]

2. S.B. CIVIL WRIT PETITION NO. 4990/2007
[Managing Committee, Nav Bharat Senior Secondary School Vs. Smt. Raj Kumari S.Kamra & Ors.]

3. S.B. CIVIL WRIT PETITION NO. 4991/2007
[Managing Committee, Nav Bharat Senior Secondary School Vs. Smt. Raj Kumari Lekhari & Ors.]

4. S.B. CIVIL WRIT PETITION NO. 4992/2007
[Managing Committee, Nav Bharat Senior Secondary School Vs.Vinod Chandra Shukla & Ors.]

5. S.B. CIVIL WRIT PETITION NO. 4993/2007
[Managing Committee, Nav Bharat Senior Secondary School Vs. Atma Prakash Kandhari & Ors.]

6. S.B. CIVIL WRIT PETITION NO. 4994/2007
[Managing Committee, Nav Bharat Senior Secondary School Vs. Khub Chand Ragwani & Ors.]

Date of Order : 11.10.2007

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.Sanjay Mathur, for the petitioner.

These petitions are taken up for disposal by this common order for the reasons and circumstances noticed hereafter.

These petitions have been submitted by the Managing Committee, Nav Bharat Senior Secondary School, Udaipur against similar nature orders made by the Rajasthan Non-Government Educational Institutions Tribunal, Jaipur allowing different applications made under Section 21 of the Rajasthan

Non-Government Educational Institutions Act, 1989 ['the Act of 1989'] directing grant of different benefits as admissible to the erstwhile employees of the petitioner.

These petitions were taken up for consideration on 23.08.2007 and learned counsel for the petitioner submitted [vide order made in CWP No. 4989/2007] that the petitioner has already made a representation to the Government for release of grant in relation to discharge of the liability arising under the order impugned; and on being pointed out the dictum of the Hon'ble Supreme Court in the case of Rajasthan Welfare Society Vs. State of Rajasthan: 2005 SCC (L&S) 524, learned counsel for the petitioner submitted that the petitioner society was making efforts to sell-off a part of its land and has already sought permission for alienating the property by a request made on 30.05.2007 to the Director, Secondary Education; and, learned counsel submitted, that essentially the petitioner was seeking some breathing time to make arrangements and so also to pursue its representation with the Government; and prayed that notice may be issued to the respondents concerned on this limited aspect.

Even while expressing reservation on the proposition so stated, learned counsel was asked if the petitioner was ready to make at least 50% payment against the order in question to the employees concerned before this court would consider

issuance of notice whereupon learned counsel sought a month's time so as to make arrangements for payment. In the circumstances of the case, time prayed for was allowed and these matters were posted to 24.09.2007.

On 24.09.2007, learned counsel for the petitioner pointed out that the petitioner had been able to dispose of a part of its assets and to gather some funds for the purpose of discharge of its obligations; and learned counsel sought some more time for the petitioner to take further steps. Looking to the circumstances and the prayer made, these matters were adjourned to 09.10.2007; however, it was enjoined upon the petitioner to make 50% of payment against the order in question to the employees concerned. The order dated 24.09.2007 reads as under:-

> "Learned counsel for the petitioner points out that the petitioner has been able to dispose of a part of its assets and has gathered some funds for the purpose of discharging his obligations and seeks some time for the petitioner to take further steps.
>
> In the circumstances of the case, the matter is adjourned today and be placed for consideration on 09.10.2007.
>
> In the meantime, it shall be required of the petitioner to make 50% of the payment against the order in question to the employees concerned.
>
> Put up on 09.10.2007."

These petitions were taken up for consideration yesterday; and learned counsel informed that the petitioner had not been able to carry out compliance of the order dated 24.09.2007 for making 50% payment against the orders impugned. However, at the request of learned counsel, the matters were placed today.

Today again learned counsel submitted that the petitioner has been facing severe financial constraints and at present is not a position to make payment under the orders in question; and made a request that notices may be issued in these petitions for the purpose of consideration by the Government of sharing the burden of payment under the orders in question.

Having examined the matters in their totality, this Court is clearly of opinion that these writ petitions remain totally bereft of substance and do not merit any further consideration nor the petitioner is entitled any further indulgence. There appears no illegality whatsoever in the orders made by the Tribunal; and so far the proposition of the petitioner about sharing of burden by the Government is concerned, the Hon'ble Supreme Court in the case of Rajasthan Welfare Society Case (supra) has specifically held that gratuity within the meaning of the Act and Rules cannot form part of recurring grant and the communication of the Government to the effect

that the Rules do not provide for grant-in-aid on the amount of gratuity has been upheld without prejudice to the rights of the employees to get the gratuity from the institution concerned. However, the Hon'ble Supreme Court observed that if any representations are made by the aided institutions, the Government would sympathetically consider the question of gratuity amount payable to the employees for the purpose of computing the amount of grant-in-aid, but pending consideration of such representation, the payment of gratuity to the employees is not to be delayed. In view of the aforesaid there appears no reason to consider any interference in these cases.

The conduct of the petitioner has also not been fair or reasonable. On 23.08.2007, it was stated before this Court that the petitioner was seeking some breathing time for making arrangements and so also to pursue the representations with the Government; and thereafter, on 24.09.2007, it was specifically admitted that the petitioner has been able to dispose of a part of its assets and has gathered funds for the purpose of discharging of its obligations. The petitioner, even when under the directions already issued by the Tribunal for making payment to employees concerned and even when being able to gather further funds by way of disposal of assets, if would yet choose to avoid compliance of orders passed by

the Tribunal, then such a conduct could only said to be beyond all reasonableness and rather of challenge to the very authority of the Tribunal and to all the requirements of law. The petitioner is further guilty of non-compliance of the specific directions of this Court, as made on 24.09.2007, for making 50% payment against the orders in question.

In the aforesaid view of the matter not only these petitions deserve to be dismissed but further, the orders passed by the Tribunal deserve to be put to execution at once, if not taken up for execution by the employees concerned.

Therefore, while rejecting these petitions, it is directed that a copy of this order along with photocopies of the orders passed by the Tribunal concerned in each case be sent to the District Judge, Udaipur within whose jurisdiction the petitioner is said to be situated and carrying on its activities; and it shall be required of the District Judge, Udaipur to direct the competent court concerned, in conformity with the requirement of Section 27A of the Act of 1989, to put the orders to execution by adopting coercive methods too, if necessary.

The petitions stand rejected with the directions aforesaid.

(DINESH MAHESHWARI),J.

Arti

S.B. CIVIL WRIT PETITION NO. 4990/2007
[Managing Committee, Nav Bharat Senior Secondary School Vs. Smt. Raj Kumari S.Kamra & Ors.]

Date of Order : 11.10.2007

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.Sanjay Mathur, for the petitioner.

The writ petition stands rejected with directions [vide order made in S.B.Civil Writ Petition No.4989/2007: Managing Committee, Nav Bharat Senior Secondary School Vs. Smt.Manju Dwivedi and others].

(DINESH MAHESHWARI),J.

S.B. CIVIL WRIT PETITION NO. 4991/2007
[Managing Committee, Nav Bharat Senior Secondary School Vs. Smt. Raj Kumari Lekhari & Ors.]

Date of Order : 11.10.2007

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.Sanjay Mathur, for the petitioner.

The writ petition stands rejected with directions [vide order made in S.B.Civil Writ Petition No.4989/2007: Managing Committee, Nav Bharat Senior Secondary School Vs. Smt.Manju Dwivedi and others].

(DINESH MAHESHWARI),J.

S.B. CIVIL WRIT PETITION NO. 4992/2007
[Managing Committee, Nav Bharat Senior Secondary School Vs.Vinod Chandra Shukla & Ors.]

Date of Order : 11.10.2007

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.Sanjay Mathur, for the petitioner.

The writ petition stands rejected with directions [vide order made in S.B.Civil Writ Petition No.4989/2007: Managing Committee, Nav Bharat Senior Secondary School Vs. Smt.Manju Dwivedi and others].

(DINESH MAHESHWARI),J.

S.B. CIVIL WRIT PETITION NO. 4993/2007
[Managing Committee, Nav Bharat Senior Secondary School Vs. Atma Prakash Kandhari & Ors.]

Date of Order : 11.10.2007

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr.Sanjay Mathur, for the petitioner.

The writ petition stands rejected with directions [vide order made in S.B.Civil Writ Petition No.4989/2007: Managing Committee, Nav Bharat Senior Secondary School Vs. Smt.Manju Dwivedi and others].

(DINESH MAHESHWARI),J.

S.B. CIVIL WRIT PETITION NO. 4994/2007
[Managing Committee, Nav Bharat Senior Secondary School Vs. Khub Chand Ragwani & Ors.]

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(DINESH MAHESHWARI),J.